

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x Civil Action No.: CV-05-518 (ERK) (RLM)  
UNITED STATES OF AMERICA, §  
§  
Plaintiff, §  
- against- §  
§  
TRICIA PHILLIPS, §  
§  
Defendant. §  
-----x

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
APR 20 2005  
P.M.  
TIME A.M.

DEFAULT JUDGMENT

Because Tricia V. Phillips failed to appear to defend this action after having been served with process, it is ordered that a default be entered.

It is adjudged that the United States of America recover from Tricia V. Phillips:

Claim No. C-94205W

<u>Principal Balance:</u>	<u>\$2,795.24</u>
<u>Total Interest Accrued at 8.000%:</u>	<u>\$2,847.06</u>
<u>Filing and Service of Process:</u>	<u>\$180.00</u>
<u>Subtotal:</u>	<u>\$5,822.30</u>
<u>Attorney's Fees:</u>	<u>\$1,525.00</u>
<u>Total Owed:</u>	<u>\$7,347.30</u>

Post-judgment interest shall be calculated, pursuant to 28 U.S.C. §1961.

Signed: Brooklyn, New York

May 13, 2005

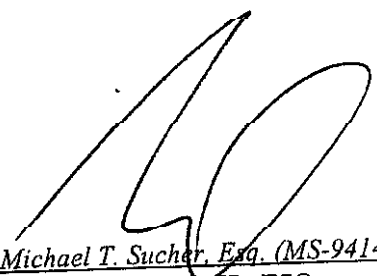
Edward R. Korman  
Edward R. Korman  
United States District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Default Judgment and supporting papers was mailed on April 20, 2005 to:

Tricia Phillips  
Defendant In Person  
235 East 35<sup>th</sup> Street  
Brooklyn, NY 11203

Affirmed: Brooklyn, New York  
April 20, 2005



s/ Michael T. Sucher, Esq. (MS-9414)  
MICHAEL T. SUCHER, ESQ.  
Private Counsel for Plaintiff  
United States of America  
26 Court Street Suite 2412  
Brooklyn, New York 11242  
Tel. (718) 522-1995  
Fax. (718) 797-3174

**Attorney:**

Michael Sucher

113447 230x 30.00  
United States District Court Eastern

County of District of New York

United States Of America

Petitioner Index # 518/05  
Plaintiff(s).

-against-

AFFIDAVIT OF SERVICE

Tricia Phillips

Respondent  
Defendant(s).

STATE OF NEW YORK: COUNTY OF KINGS ss:

Richard Dombakly BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 02/28/05 at 6:20pm at 235 E. 35th Street, Private House Brooklyn, NY 11203 deponent served the within Summons In A Civil Action & Complaint

on TRICIA PHILLIPS ,  
therein named.

INDIVIDUAL

A. xxx

by delivering a true copy of each to said defendants personally; deponent knew the person so served to be the person described as said defendant therein. (S)He identified (her) himself as such.

CORPORATION/BUSINESS

B.

a (domestic)(foreign)corporation/business by delivering thereat a true copy of each to Personally, deponent knew said corporation/business so served to be the corporation/business described in said summons as said defendant and knew said individual to be thereof.

SUITABLE AGE PERSON

C.

by delivering thereat a true copy(ies) of each to a person of suitable age and discretion. Said premises is defendants (actual place of business)(dwelling house)(usual place of abode)within the state. (S)He identified (her)himself as of defendant.

AFFIXING TO DOOR, ETC.

D.

by affixing a true copy(ies) of each to the door of said premises, which is defendants (actual place of business)(dwelling house)(usual place of abode) within the state. Deponent was unable, with due diligence, to find defendant, a person of suitable age and discretion or a work address thereat, having called there on

MAILING USE WITH

Deponent also mailed a copy(ies) of same post paid by first class mail properly addressed to defendant(s) at the aforementioned address in an envelope marked "personal & confidential" and not indicating that the communication was from an attorney or concerned an action against the defendant(s) and deposited said envelope in a post office official depository under exclusive care and custody of the United States Postal Service within New York State on

Deponent further states that he describes the person actually served as follows

Sex	Skin Color	Hair Color	Age (Approx)	Height (Approx)	Weight (Approx)
female	black	black	40	5'6	140

MILITARY SERVICE

Above person was asked whether the defendant(s) was (were) in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the defendant(s) is (are) not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

USE IN NYC CIVIL CT.

The language required by NYCRR (e), (f) & (H) was set forth on the face of the said summons (es).

SUPREME COURT ACTION

Papers so served were properly endorsed with the index number and date of filing.

Sworn before me on 03/01/05

NEIL J. SCHRAGER  
Notary Public State of New York  
NO. 24-4984776  
Qualified in Kings County  
Commission Expires July 29, 2005

  
LICENSE NO. 0845965  
Richard Dombakly

UNITED STATES DISTRICT COURT  
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MOTION FOR DEFAULT AND FINAL JUDGMENT  
AND FOR APPROVAL OF LEGAL FEES

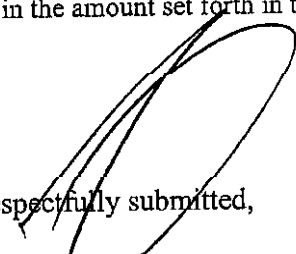
The Honorable Edward R. Korman:

United States of America ("USA") moves for final judgment against Tricia Phillips ("Phillips") because Phillips has not answered, although duly summoned in the manner and for the length of time prescribed by law, and would further show that service was made on Phillips, and to USA's knowledge Phillips was not at the time of service in the military or naval service of the United States of America.

USA respectfully requests a final judgment in the amount set forth in the attached proposed judgment.

Dated: Brooklyn, New York  
April 20, 2005

Respectfully submitted,

  
s/ Michael T. Sucher, Esq. (MS-9414)  
MICHAEL T. SUCHER, ESQ.  
Private Counsel for Plaintiff  
United States of America  
26 Court Street Suite 2412  
Brooklyn, New York 11242  
Tel. (718) 522-1995  
Fax. (718) 797-3174

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**AFFIRMATION OF AMOUNT DUE**

MICHAEL T. SUCHER, ESQ., an attorney duly licensed to practice in the Courts of the State of New York and in this honorable Court, affirms the following to be true under penalties of perjury:

1. I am the attorney for the United States of America in the above-entitled and numbered action.
2. The records of the Clerk of this Court show that the Summons and Complaint in this cause were duly served on Tricia Phillips ("Phillips") on February 28, 2005.
3. More than 20 days have passed since such service and Phillips has failed to appear, plead or otherwise defend.
4. Phillips is not an infant or incompetent person and is not in the military service within the purview of the Servicemen's Civil Relief Act of 2003, as amended.
5. Reasonable Attorney's fees are specifically authorized for collection on the promissory note sued upon.
6. The sum of \$1,164.46 is hereby requested as attorney's fees—same being 20% of the total amount due as of this date.
7. It is respectfully submitted that 20% of the amount sought for collection is a reasonable amount of attorney's fees to award, and is in line with the percentage amount awarded as reasonable Attorneys' fees by federal courts. See, e.g., Yurman Designs, Inc. v. PAJ,

Inc., 29 Fed. Appx. 46 (2<sup>nd</sup> Circuit, 2002); Wombles Charteres, Inc. v. Orix Credit Alliance, Inc., 1999 U.S. Dist. LEXIS 16859 (S.D.N.Y., 1999); Peoples Westchester Sav. Bank v. Ganc, 715 F.Supp. 610 (S.D.N.Y., 1989) ("fees amounting to 20 percent or more of the amount recovered have been held to be reasonable [by the appellate courts]").

8. Alternatively, if this Court will look only to the lodestar method of computation of attorney's fees, it is requested that this court fix attorney's fees in the sum of not less than \$1,575 based on our office's expenditure of not less than 4.5 hours in prosecuting this action through default, at this office's normal hourly rate of \$350 per hour. Our services on a typical collection case, resulting in a default, comprise the following services: *Upon receipt of a student loan collection file we review the same; skip trace; prepare and send correspondence to defendant; make numerous attempts at communication with the defendant; draft summons and complaint; file the same with court on paper and electronically; draft request for waiver of service and cover letter; transmit the same to defendant and file with court electronically; supervise completion of service of process and file the same electronically; prepare, serve and electronically file motion for default judgment; and follow PACER for Notation of Default and Default Judgment.*
9. Accordingly, it is respectfully requested that this court exercise its discretion and award a reasonable amount of attorney's fees to Plaintiff, United States of America.
10. Costs in this action comprise this court's filing fee of \$150, sought by Plaintiff pursuant to 28 U.S.C. 2412, and Plaintiff's out-of-pocket expenses for service of the summons and complaint (\$30; bill annexed hereto).
11. The following information is provided from the USA's records for this claim:

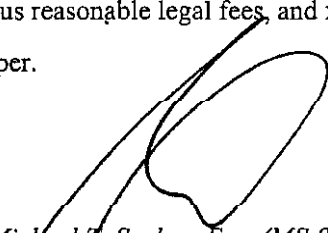
**Claim No. C-94205W:**

Principal Balance:	\$2,795.24
Total Interest Accrued:	\$2,847.06

Filing and Service of Process:	\$180.00
Total Owed:	<u>\$5,822.30</u>
Interest Rate:	8.000%

WHEREFORE, it is respectfully requested that this Court enter judgment against the defendant in the sum of \$5,822.30, plus applicable interest, plus reasonable legal fees, and for such other and further relief as to this Court may seem just and proper.

Affirmed: Brooklyn, New York  
April 20, 2005



s/ Michael T. Sucher, Esq. (MS-9414)  
MICHAEL T. SUCHER, ESQ.  
Private Counsel for Plaintiff  
United States of America  
26 Court Street Suite 2412  
Brooklyn, New York 11242  
Tel. (718) 522-1995  
Fax. (718) 797-3174

Federated Process Services Inc.  
32 Court Street  
Brooklyn, NY 11201  
(718) 875-1483

Michael Sucher  
26 Court St 24 fl  
Bklyn, NY 11242

Service Charges

Billing Date: 04/01/05  
Atty: MS - Michael Sucher

OUR NO.	INDEX	PLAINTIFF	DEFENDANT NAMED	DATE SERVED	SERVICE COSTS
113447	518/05	United States Of America	TRICIA PHILLIPS	02/28/05	30.00